IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3024 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : to see the judgment?
2. To be referred to the Reporter or not? :
3. Whether Their Lordships wish to see the fair copy : of the judgement?
4. Whether this case involves a substantial question : of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?

LAXMIBEN BHAVANBHAI WADHER Versus STATE OF GUJARAT

MR SATYEN B RAWAL for the Petitioner.
Mr.K.P. Raval, Assistant GOVERNMENT PLEADER, for Respondent Nos. 1-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 02/09/2003

ORAL JUDGEMENT

Rule. Mr.Raval, learned AGP, waives service of rule on behalf of the respondents.

With the consent of the parties, the matter is taken up for final hearing today.

The petitioner has filed this petition for getting family pension. After putting in service of 13 years, the husband of the petitioner died while in

service. The petitioner thereafter submitted an application for getting family pension. Since the same was not granted, the petitioner has filed this petition.

In response to the notice of this Court, affidavit-in-reply has been filed by the Department and it is stated as under in paragraph 4 :-

> " ... ...
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> 4. The petitioner has prayed for issuance of a writ to the respondent no.3 to prepare the pension papers and sent it to the appropriate authority for deciding the entitlement of the petitioner for family pension. Since the petitioner expired on 14th December, 1989 the service book could not be opened. The resolution of the Government dated 17th October 1988 is with respect to the benefits given to the employees. As per the said resolution the period of service as a daily wager is also to be reckoned for the purpose of giving benefit of pension. In accordance with the resolution dated 17.10.88 the petitioner will be given the benefit of pension.
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> ... ..."

Mr.Raval, learned AGP, submitted that the petitioner is accordingly granted the benefit of family pension. In view of the said affidavit-in-reply, whatever amount is required to be given to the petitioner may be paid to the petitioner immediately and within two weeks from today and regular pension may be paid immediately. It is unfortunate that the case of the petitioner took 14 years for adjudication at the hands of the Department. It is open for the petitioner to apply thereafter for interest for delayed payment of pension. If any such representation is made, the authority is directed to take decision in accordance with law and as per the Rules and Regulations of the Department.

The petition is accordingly allowed to the

aforesaid extent. Rule is made absolute accordingly. No costs.

Direct service of the writ to be given to the petitioner for serving to the concerned Department.

2nd September, 2003 (P.B. Majmudar, J.)

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(apj)